

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANNE DE LACOUR, ANDREA WRIGHT, and
LOREE MORAN, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

COLGATE-PALMOLIVE CO., and TOM'S OF
MAINE INC.,

Defendants.

Civil Action No. 1:16-cv-08364-KMW

DECLARATION OF HANNAH Y. CHANOINE

I, Hannah Y. Chanoine, do hereby declare the following under penalty of perjury
pursuant to 28 U.S.C. § 1746:

1. I am an attorney at O'Melveny & Myers LLP, counsel of record for defendants Colgate-Palmolive Co. ("Colgate"), and Tom's of Maine Inc. ("Tom's," and together with Colgate, "Defendants"). I am admitted to the Bar of the State of New York, and am licensed to appear before this Court. I hereby submit this declaration in support of Defendant Tom's Motion for Summary Judgment based upon my personal knowledge and review of the case file.

2. Attached as **Exhibit 1** is a true and correct copy of excerpts from a Tom's of Maine presentation on its Stewardship Model, produced in connection with this litigation by Defendants with the beginning Bates Number COLGATETOMS00002908.

3. Attached as **Exhibit 2** is a true and correct copy of the "Our Stewardship Model," page on Tom's website, produced in connection with this litigation by Defendants with the beginning Bates Number COLGATETOMS00226872.

4. Attached as **Exhibit 3** is a true and correct copy of Plaintiffs' First Amended Class Action Complaint, filed on December 9, 2016 in this action, Dkt No. 8.

5. Attached as **Exhibit 4** is a true and correct copy of the Tom's of Maine 2020 Product Catalog, produced in connection with this litigation by Defendants with the beginning Bates Number COLGATETOMS00146790.

6. Attached as **Exhibit 5** is a true and correct copy of the Joint Stipulation of Settlement, filed on September 8, 2015, in *Gay v. Tom's of Maine, Inc.*, No. 14-cv-60604 (S.D. Fla.) (the "*Gay* Litigation"), Dkt. No. 20-2.

7. Attached as **Exhibit 6** is a true and correct copy of the Tom's of Maine "Long Lasting" deodorant label, as it existed after the *Gay* Settlement, produced in connection with this litigation by Defendants with the beginning Bates Numbers COLGATETOMS00107213.

8. Attached as **Exhibit 7** is a true and correct copy of the August 22, 2022 Declaration of John Kindness in Support of the Expert Report of Edward J. Fox.

9. Attached as **Exhibit 8** is a true and correct copy of ingredient pages forensically captured by an O'Melveny employee from the Tom's website, produced in connection with this litigation by Defendants with the beginning Bates Numbers COLGATETOMS00226862 (Ingredient Processing); COLGATETOMS00226867 (Ingredient Main Page); COLGATETOMS00226615 (Ascorbic acid); COLGATETOMS00226674 (Glycerin); COLGATETOMS00226756 (Propylene Glycol); COLGATETOMS00226792 (Sodium lauryl sulfate or "SLS"); COLGATETOMS00226812 (Sorbitol); COLGATETOMS00226839 (Xanthan gum); and COLGATETOMS00226842 (Xylitol).

10. Attached as **Exhibit 9** is a true and correct copy of the "Certified B Corporation" page on Tom's website, forensically captured by an O'Melveny employee.

11. Attached as **Exhibit 10** is a true and correct copy of Tom's of Maine "Long Lasting" deodorant label, as it existed before the *Gay* Settlement, produced in connection with this litigation by Defendants with the beginning Bates Number COLGATETOMS00000335.

12. Attached as **Exhibit 11** is a true and correct copy of "Tom's of Maine: Paid Media Tracker" for the period January through August 2019, produced in connection with this litigation by Defendants with the beginning Bates Number of COLGATETOMS00146757. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 11 have been designated as confidential by Defendants and have been filed under seal.

13. Attached as **Exhibit 12** is a true and correct copy of 2016 Tom's of Maine deodorant and toothpaste sales data, produced in connection with this litigation by Defendants with the beginning Bates Number of COLGATETOMS00227307. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 12 have been designated as confidential by Defendants and have been filed under seal.

14. Attached as **Exhibit 13** is a true and correct copy of the First Amended Class Action Complaint, filed on July 24, 2015, in the *Gay* Litigation, Dkt. No. 14.

15. Attached as **Exhibit 14** is a true and correct copy of Plaintiffs' Memorandum of Law in Support of Unopposed Motion for Preliminary Approval of Class Settlement, filed on July 24, 2015, in the *Gay* Litigation, Dkt No. 15.

16. Attached as **Exhibit 15** is a true and correct copy of the Order Preliminarily Approving Class Action Settlement, filed on September 9, 2015, in the *Gay* Litigation, Dkt No. 21.

17. Attached as **Exhibit 16** is a true and correct copy of Plaintiffs' Memorandum of Law in Support of Unopposed Motion for Final Approval of Class Settlement, filed on December 15, 2015, in the *Gay* Litigation, Dkt. No. 32.

18. Attached as **Exhibit 17** is a true and correct copy of the Final Settlement Order and Judgment, filed on March 11, 2016, in the *Gay* Litigation, Dkt. No. 43.

19. Attached as **Exhibit 18** is a true and correct copy of the July 22, 2022 Expert Report of plaintiffs' proffered damages expert, Colin B. Weir. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 18 have been designated as confidential by Defendants and have been filed under seal.

20. Attached as **Exhibit 19** is a true and correct copy of Memorandum in Support of Bill Number 7223-B of the New York State Legislature, titled "An act to amend the general business law, in relation to providing a private right of action."

21. Attached as **Exhibit 20** is a true and correct copy of Bill 8530 from the New York State Legislature, dated January 14, 1980, amending Section 349 of the General Business Law.

22. Attached as **Exhibit 21** is a true and correct copy of a May 29, 1980 Letter from New York State Assembly Chairman Jose E. Serrano regarding Bill 8530.

23. Attached as **Exhibit 22** is a true and correct copy of the March 11, 2022 Responses and Objections by Loree Moran to Defendants' Second Set of Requests for Admission propounded in this litigation.

24. Attached as **Exhibit 23** is a true and correct copy of the March 11, 2022 Responses and Objections by Anne de Lacour to Defendants' Second Set of Requests for Admission propounded in this litigation.

25. Attached as **Exhibit 24** is a true and correct copy of the March 11, 2022 Responses and Objections by Andrea Wright to Defendants' Second Set of Requests for Admission propounded in this litigation.

26. Attached as **Exhibit 25** is a true and correct copy of excerpts of the July 19, 2018 deposition of Plaintiff Andrea Wright.

27. Attached as **Exhibit 26** is a true and correct copy of excerpts of the July 17, 2018 deposition of Plaintiff Loree Moran.

28. Attached as **Exhibit 27** is a true and correct copy of excerpts of the July 18, 2018 deposition of Plaintiff Anne de Lacour.

29. Attached as **Exhibit 28** is a true and correct copy of the November 8, 2017 Responses and Objections by Andrea Wright to Defendants' First Set of Requests for Admission propounded in this litigation.

30. Attached as **Exhibit 29** is a true and correct copy of the November 8, 2017 Responses and Objections by Anne de Lacour to Defendants' First Set of Requests for Admission propounded in this litigation.

31. Attached as **Exhibit 30** is a true and correct copy of the November 8, 2017 Responses and Objections by Loree Moran to Defendants' First Set of Requests for Admission propounded in this litigation.

32. Attached as **Exhibit 31** is a true and correct copy of the July 8, 2022 Expert Report of Plaintiffs' proffered damages expert, Dr. J. Michael Dennis. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 31 have been designated as confidential by Defendants and have been filed under seal.

33. Attached as **Exhibit 32** is a true and correct copy of excerpts of the September 19, 2022 deposition of Plaintiffs' proffered damages expert, Dr. J. Michael Dennis.

34. Attached as **Exhibit 33** is a true and correct copy of the August 23, 2022 Rebuttal Report of Professor David Reibstein, Defendants' conjoint survey expert. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 33 have been designated as confidential by Defendants and have been filed under seal.

35. Attached as **Exhibit 34** is a true and correct copy of the August 23, 2022 Rebuttal Report of Professor Edward J. Fox, Defendants' damages expert. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 34 have been designated as confidential by Defendants and have been filed under seal.

36. Attached as **Exhibit 35** is a true and correct copy of the July 21, 2022 Expert Report of Plaintiffs' proffered consumer survey expert, Mr. Brian M. Sowers.

37. Attached as **Exhibit 36** is a true and correct copy of excerpts of the September 13, 2022 deposition of Plaintiffs' proffered consumer survey expert, Mr. Brian M. Sowers.

38. Attached as **Exhibit 37** is a true and correct copy of Appendix D to the July 21, 2022 Expert Report of Plaintiffs' proffered consumer survey expert, Mr. Brian M. Sowers.

39. Attached as **Exhibit 38** is a true and correct copy of Appendix G of the July 21, 2022 Expert Report of Plaintiffs' proffered consumer survey expert, Mr. Brian M. Sowers.

40. Attached as **Exhibit 39** is a true and correct copy of Appendix H of the July 21, 2022 Expert Report of Plaintiffs' proffered consumer survey expert, Mr. Brian M. Sowers.

41. Attached as **Exhibit 40** is a true and correct copy of the August 23, 2022 Rebuttal Report of Professor Ran Kivetz, Defendants' expert in surveys, marketing, and consumer

psychology. Pursuant to the contemporaneously filed letter motion to seal, portions of Exhibit 40 have been designated as confidential by Defendants and have been filed under seal.

42. Attached as **Exhibit 41** is a true and correct copy of the July 22, 2022 Expert Report of Plaintiffs' proffered materials expert, Dr. Zhaohui Sunny Zhou.

43. Attached as **Exhibit 42** is a true and correct copy of excerpts of the September 14, 2022 deposition of Plaintiffs' proffered materials expert, Dr. Zhaohui Sunny Zhou.

44. Plaintiffs have not submitted reports from any Rebuttal Experts in this litigation.

Executed this 24th day of October, 2022, in New York, New York.

/s/ Hannah Y. Chanoine
Hannah Y. Chanoine